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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,301	01/02/2002	Frederick Allyn Kulack	IBM / 191	2167
7590	09/30/2004		EXAMINER	
Thomas W. Humphrey Wood, Herron & Evans, L.L.P. 2700 Carew Tower 441 Vine Street Cincinnati, OH 45202-2917			SAADAT, CAMERON	
			ART UNIT	PAPER NUMBER
			3713	
DATE MAILED: 09/30/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/039,301	KULACK, FREDERICK ALYN
	Examiner Cameron Saadat	Art Unit 3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 6/21/2004.
- 2a)  This action is FINAL.                            2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-22 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1,2,8-17,21 and 22 is/are rejected.
- 7)  Claim(s) 3-7, 18-20 is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some \* c)  None of:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

## DETAILED ACTION

In response to amendment filed 6/21/2004, Claims 1-22 are pending in this application.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-2, 8-17, 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Cook et al. (USPN 6,427,063; hereinafter Cook).**

This holding, incorporated herein, is maintained from the prior action for the cited claims as amended. Response to the applicant's remarks are provided below and incorporated herein.

Regarding amended claims 1 and 12, Cook discloses a portable organizer device comprising: a housing sized to be hand-held; a display within the housing; and circuitry within the housing (Col. 17, lines 7-11) implementing: a calendar database; a communication link configured to access an assignment record on an institutional system, the assignment record describing an assignment characterized by (as per claim 1) an estimated duration and (as per claim 12) a difficulty level (Col. 39, lines 29-33); a user interface configured to receive a user schedule constraint; and an agent configured to create a calendar entry for the accessed assignment record in response to the user schedule constraint, and the estimated duration or the completion date (Col. 40, lines 39-62).

Regarding amended claims 16 and 21, Cook discloses a method of updating a calendar database, comprising: providing a portable organizer comprising a housing sized to be handheld, a display in the housing, and circuitry within the housing (Col. 17, lines 7-11), implemented for: accessing an

assignment record on an institutional system, the assignment record describing an assignment characterized by an estimated duration or a completion date; receiving a user schedule constraint; and creating a calendar entry for the accessed assignment record in response to the user schedule constraint, and the estimated duration or the completion date (Col. 30, lines 28-34; Col. 40, lines 39-62).

***Allowable Subject Matter***

Claims 3-7, 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

Patentability is seen in, although not limited to: dependent claims 3, 4, 18, and 20, the combination of elements specifically claimed, including: allowing a user to access an assignment record on an institutional system, wherein the assignment is characterized by an estimated duration; and configured to receive a user schedule constraint; and an agent configured to create a calendar entry for the accessed assignment record in response to the user schedule constraint and the estimated duration; and further comprising a sensor responsive to a unique identifying signal from an identification tag attachable to an article and operable to emit said unique identifying signal; wherein the agent is further configured to initiate a notification to the user in response to the unique identifying signal. The closest prior art of record does not teach or fairly suggest this feature in the combination.

***Response to Arguments***

Applicant's arguments filed 6/21/2004 have been fully considered but they are not persuasive. Applicant asserts that Cook does not disclose a portable device as claimed, but rather only a portable memory device that is to be removable by the student from a student client workstation that is clearly not portable. However, Cook discloses an embodiment wherein portable memory device is a permanently

mounted component of the client computer. In this embodiment, Cook discloses that the client computer is a portable client computer (See Col. 17, lines 7-11). In addition, the fact that a claimed device is portable or movable is not sufficient by itself to patentably distinguish over an otherwise old device unless there are new or unexpected results *In re Lindberg*, 194 F.2d 732, 93 USPQ 23 (CCPA 1952).

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

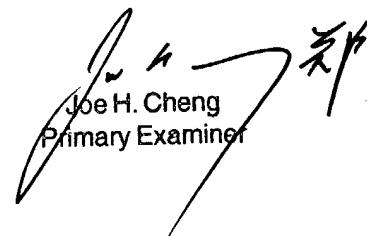
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cameron Saadat whose telephone number is 703-305-5490. The examiner can normally be reached on M-F 9:00 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 703-308-2064. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
CS

  
Joe H. Cheng  
Primary Examiner